

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
999 18TH STREET- SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

DOCKET NOs.: CAA-08-2004-0004
CAA-08-2004-0005

IN THE MATTER OF:)	
)	
HYLANDER AUTOMOTIVE)	
SERVICES, INC.)	FINAL ORDER
)	
And)	
)	
MICHAEL OSTROWSKI,)	
)	
RESPONDENTS)	

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

November 2, 2004
DATE

SIGNED
Alfred C. Smith
Regional Judicial Officer

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

In the Matter of:)	
)	
Hylander Automotive Services, Inc.)	Docket Nos. CAA-08-2004-0004
)	and CAA-08-2004-0005
and)	
)	
Michael Ostrowski,)	
)	
Respondents)	

CONSENT AGREEMENT

Complainant United States Environmental Protection Agency ("EPA"), Region 8, and Respondents Hylander Automotive Services, Inc. and Michael Ostrowski hereby consent and agree as follows:

1. On April 14, 2004, EPA issued an Administrative Compliance Order ("Order") and an Administrative Complaint ("Complaint") alleging that Respondent Hylander Automotive Services, Inc. had violated the "Stratospheric Ozone Protection" requirements of Subchapter VI of the Clean Air Act ("Act" or "CAA"), 42 U.S.C. § 7671 *et seq.* and the "Protection of Stratospheric Ozone" regulations codified in 40 C.F.R. part 82. The Complaint proposed an administrative civil penalty for the violations alleged therein, under CAA § 113, 42 U.S.C. § 7413. The EPA Docket Numbers for the Order and Complaint are CAA-08-2004-0004 and CAA-08-2004-0005, respectively.

2. On October 21, 2004, EPA filed an Amended Administrative Complaint ("Amended Complaint") adding Michael Ostrowski in his individual capacity as a Respondent.

3. Pursuant to 40 C.F.R. § 22.18(b)(2), the Respondents admit the jurisdictional allegations of the Complaint and neither admit nor deny the specific factual allegations of the Complaint or the Order. The Respondents do not admit any wrongdoing.

4. The Respondents waive their right to a hearing before any tribunal to contest any issue of law or fact set forth in the Complaint or the Order. They also waive their right to appeal any final order resulting from this Consent Agreement ("Agreement").

5. This Agreement, upon incorporation into a final consent order, will apply to and be binding upon EPA and upon the Respondents and the Respondents' heirs, successors and assigns. This Agreement contains all terms of the settlement agreed to by the parties.

6. The Respondents consent and agree to pay a civil penalty in the amount of \$7,025.35 in accordance with the following payment schedule:

<u>INSTALLMENT NUMBER</u>	<u>AMOUNT</u>	<u>DUE DATE</u>
First Installment	\$2,011.89	Oct. 31, 2004
Second Installment	\$2,008.36	Dec. 31, 2004
Third Installment	\$3,005.10	Feb. 28, 2005

All payments shall be made by remitting a cashier's or certified check for the installment amount, including "In the Matter of

Hylander Automotive Services, Inc. and Michael Ostrowski, Docket No. CAA-08-2004-0005," payable to "Treasurer, United States of America," to:

Mellon Bank
P.O. Box 360859
Pittsburgh, PA 15251-6859

Any payment made via overnight delivery shall be sent to:

U.S. EPA, 360859
Mellon Bank
Client Service Center, Room 154-
0670
500 Ross Street
Pittsburgh, PA 15262-0001

A copy of the check and any enclosed documentation shall be sent simultaneously to:

Tina Artemis (8RC)	and	Cindy Beeler, 8ENF-
AT		
Regional Hearing Clerk		Environmental Engineer
U.S. EPA Region 8		U.S. EPA Region 8
999 18 th Street, Suite 300		999 18 th Street, Suite 300
Denver, CO 80202-2466		Denver, CO 80202-2466

7. A payment is considered late if it is not received by Mellon Bank on the stated due date. Payments must be received by 11:00 a.m. EST to be considered as received that day.

8. In the event payment is not received by the specified due date, an additional amount of interest shall accrue from the payment due date at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. Interest will continue to accrue until the payment is received in full.

9. In addition to the accrual of interest specified in Paragraph 8 of this Agreement, a late payment charge of fifteen dollars (\$15.00) shall be imposed after the first 30 days that any installment, or any portion thereof, is overdue, with an additional charge of ten dollars (\$10.00) imposed for each subsequent 30-day period until the installment is paid in full. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if any penalty installment payment is not received within 90 days of the due date. Payments are first applied to accrued interest, penalty and/or handling charge; the balance is then applied to the outstanding principal amount.

10. The Respondents agree that the penalty shall never be claimed as a federal or other tax deduction or credit.

11. The Respondents will be jointly and severally liable for all payments due under this Agreement.

12. Nothing in this Agreement shall relieve the Respondents of the duty to comply with the CAA and its implementing regulations. Respondent Michael Ostrowski agrees that any business for which he (or, as long as they are married, his wife Jacqueline Ostrowski) is an officer and any business in which either or both he (or, as long as they are married, his wife Jacqueline Ostrowski) together or singly own at least a 50% interest will comply with all the requirements of Subchapter VI of the CAA, 42 U.S.C. §§ 7671 *et seq.*, and 40 C.F.R. part 82, subpart G.

13. Failure by the Respondents to comply with any of the terms of this Agreement shall constitute a breach of this

Agreement and may result in referral of the matter to the United States Department of Justice for enforcement of this Agreement and for such other relief as may be appropriate.

14. Nothing in this Agreement shall be construed as a waiver by EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of any failure of the Respondents to comply with this Agreement.

15. The parties agree to submit this Agreement to the Regional Judicial Officer for EPA Region 8, with a request that it be incorporated into a final consent order.

16. Each party shall bear its own costs and attorneys' fees in this matter.

17. This Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the penalties sought in the Complaint.

18. Respondent Michael Ostrowski confirms that he is authorized to bind not only himself as an individual but also Hylander Automotive Services, Inc. to the terms of this Agreement.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,
Complainant

Date: 11/1/04 By: David J. Janik
Michael T. Risner, Director
David J. Janik
Supervisory Enforcement Attorney
Legal Enforcement Program

Date: 11/2/04 By: SIGNED
Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance,
and Environmental Justice
U.S. EPA, Region 8
999 18th St., Suite 300
Denver, CO 80202-2466

Date: 10-26-04 SIGNED
MICHAEL OSTROWSKI, individually and
for Hylander Automotive Services,
Inc.

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **HYLANDER AUTOMOTIVE SERVICES, INC., and MICHAEL OSTROWSKI, DOCKET NOS.: CAA-08-2004-0004 and CAA-08-2004-0005** was filed with the Regional Hearing Clerk on November 2, 2004.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Margaret J. Livingston, Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on November 2, 2004, to:

Hylander Automotive Services
c/o Michael Ostrowski
P. O. Box 25
Montrose, CO 81402

And pouch mailed to:

Honorable Susan L. Biro
Chief Administrative Law Judge
Office of Administrative Law Judges
U. S. EPA, Mail Code 1900L
Arial Rios Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

November 2, 2004

SIGNED

Tina Artemis
Regional Hearing Clerk

THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE ON NOVEMBER 2, 2004.

